In the High Court of Judicature at Madras

Dated: 05.12.2006

CORAM:

THE HONOURABLE MR.JUSTICE P.SATHASIVAM
and
THE HONOURABLE MR.JUSTICE S.TAMILVANAN

Writ Petition No.4598 of 2002

M. Ayyavu ..Petitioner

..vs..

1. The Inspector General/SWS,
   O/o. the Inspector General/SWS,
   Central Industrial Security Force,
   Ministry of Home Affairs,
   RCF Complex, Chembur,
   Mumbai-400 074.

2. The Deputy Inspector General/SZ,
   Central Industrial Security Force,
   (Ministry of Home Affairs),
   SZ Head Quarters, Besant Nagar,
   Chennai.

3. The Commandant,
   Central Industrial Security Force,
   (Ministry of Home Affairs),
   CISF Unit, NLC,
   Neyveli. ..Respondents

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Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, for the reasons mentioned therein.

For Petitioner : Mr.R.Singaravelan

For Respondents : Mr.L.N.Prakasam

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ORDER

(Order of the Court was made by P.SATHASIVAM,J.,)

The prayer in the writ petition reads as follows:-

"....to call for the records on the file of respondents 3, 2 and 1 in No.V-15014/CISF/NLC/Maj.19/M.A/99-12652 dated 21/22.12.1999, No.V-11014/07/2000/L&R(SZ)-2557 dated 5.5.2000 and No.V-11014/09/SZ/LC/SWS/2001/2194 dated 31.3.2001 respectively and quash the same and direct the respondents to reinstate the petitioner in service with effect from the date of compulsory retirement from service with all monetary and service benefits with 18% interest per annum by issuing a Writ of Certiorarified Mandamus..."

2. The following three charges were framed against the petitioner;

ARTICLE OF CHARGE-I

"No.834240016 Constable M.Ayyavu of 'B' Coy of CISF Unit, NLC Neyveli was found absent at FWC duty post at about 1515 hrs on 3.6.99 in 'B' shift duty, which tantamount to gross misconduct, indiscipline and dereliction of duty and unbecoming of a member of a disciplined Force".

ARTICLE OF CHARGE-II

"No.834240016 Constable M.Ayyavu of 'B' Coy CISF Unit, NLC Neyveli, while he was in 'B' shift duty on 3.6.99 at FWC duty post, was found under the influence of liquor at Block-15, CISF Family Quarters, which amounts to gross indisciplinary act on the part of the said Constable, being a member of a disciplined Force".

ARTICLE OF CHARGE-III

"No.834240016 Constable M.Ayyavu, 'B' Coy of CISF Unit, NLC Neyveli, withdraw himself from his duty post during 'B' shift duty on 3.6.99 without any information and indulged in indisciplined activities by removing his cap, belt and shoe nearby Block-15 CISF Family Quarters, thereby exhibited an act of gross misconduct and serious indiscipline being a member of disciplined Force".

3. It is not in dispute that the petitioner was afforded adequate opportunities before the Enquiry Officer. Based on the report of the Enquiry Officer holding all the charges proved,

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initially, the disciplinary authority imposed a punishment of removal from service. The said order was challenged by way of an appeal. The appellate authority, on consideration of the materials, remitted the matter to the disciplinary authority. After remand, the disciplinary authority imposed a penalty of compulsory retirement from service with full pension/gratuity benefits. Aggrieved by the same, the petitioner filed an appeal. However, the Appellate confirmed the said order. Not satisfied with the said order, the petitioner preferred a revision. The revisional authority also confirmed the order of the disciplinary authority and rejected the same. Hence, the present writ petition.

4. Learned counsel for the petitioner, by taking us through the enquiry proceedings and by pointing out that even if the claim of the management is accepted, the alleged indiscipline had occurred only at Block No.15, which is a Family Quarters, and in such circumstance, the punishment of compulsory retirement is excessive and disproportionate to the proven charges.

5. On going through the entire materials, we are unable to accept the said contention for the following reasons;

We have already extracted all the three charges levelled against him. It is not in dispute that he was afforded adequate opportunities in the enquiry. As per the first charge, he was found absent at FWC Duty Post at about 1515 hours on 03.06.1999 in 'B' shift duty. When he was at FWC duty post, he was found under the influence of liquor at Block No.15, CISF Family Quarters. Charge No.3 shows that he indulged in indisciplined activities by removing his cap, belt and shoe near Block No.15 near CISF Family Quarters. Though all the three instances said to have taken place on the same day i.e.03.06.1999, in view of the fact that he was absent at FWC Duty Post and indulged in indisciplined activities under the influence of liquor, we are of the view that no further leniency be shown to the petitioner. In fact, it is not in dispute that the appellate authority showed leniency and at the first instance, remitted the matter to the original authority. Taking note of the materials available and of the report of the Enquiry Officer and considering all the relevant aspects, the disciplinary authority imposed a punishment of compulsory retirement. It is also not in dispute that by the said order, the petitioner is eligible full pension and gratuity. It is brought to our notice by the learned counsel for the respondents that all the amounts payable to him were settled long ago.

6. Taking note of the serious proved charges and the authorities have considered all the relevant aspects, in the absence of any contra material, we are not inclined to show further leniency in interfering with the impugned orders.

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Consequently, the writ petition fails and the same is dismissed. No costs.

Sd/

Asst. Registrar

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Sub Asst. Registrar

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To

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• 1 C.C. to MR. Singaravelan, Advocate SR.No.599976.

RA (CO) 17/12/2006
RR 16.12.2006

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